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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/728,066	12/03/2003	Athur C. Perry	1987.1-7 (040020)	7966
24243 7	590 05/26/2005		EXAMINER	
CHARMASS	ON & BUCHACA & LI	BLANCO,	BLANCO, JAVIER G	
1545 HOTEL ( SUITE 150	CIRCLE SOUTH		ART UNIT	PAPER NUMBER
SAN DIEGO, CA 92108-3412			3738	

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.   Applicant(s)	·					
### Examiner   Javier G. Blanco   3738    ### The MAILING DATE of this communication appears on the cover sheet with the correspondence address  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.    Extension of time may be available under the provisions of 31 CPR 1.73(i), in no event, however, may a reply be timely filled	·	Application No.	Applicant(s)			
Javier G. Blanco  3738	Office Action Summans	10/728,066	PERRY ET AL.			
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of lines may be available under the provisions of 37 CFR 1.35(g), in no event, however, may a reply be linely filed  Extensions of lines may be available under the provisions of 37 CFR 1.35(g), in no event, however, may a reply be linely filed  Extensions of lines may be available under the provisions of 37 CFR 1.35(g), in no event, however, may a reply be linely filed  Extensions of lines may be available under the provisions of 37 CFR 1.35(g), in no event, however, may a reply be linely filed  Extension of the provision of the provision of the mailing of the statutory minimum of thiny (30) days will be considered limited.  Failur to inspire you will be considered limited.  Part of the provision of the provision of the mailing date of this communication, even if timely filed, may nector they expend to the communication of the provision of the mailing date of the communication, even if timely filed, may nector they expend to the provision of the provision						
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1) Responsive to communication(s) filed on @3 December 2003.  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-29 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are excepted to is/are vithdrawn from consideration.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Discobeure Statement(s) (PTO-1449 or PTO/SBIO8)  All Draftsperson's Patent Drawing Review (PTO-948)  3) Information Discobeure Statement(s) (PTO-1449 or PTO/SBIO8)	THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period we Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing	6(a). In no event, however, may a reply be time within the statutory minimum of thirty (30) day fill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).			
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Application/Control Number: 10/728,066

Art Unit: 3738

**DETAILED ACTION** 

Election/Restrictions

This application contains claims directed to the following patentably distinct species, 1.

from each of the three groups of species, of the claimed invention:

**Implant** 

Species A: Figure 1

Species B: Figure 5

Species C: Figure 6

Die Press

Species A: Figure 7

Species B: Figure 8

Indicia

Species A: Lettering

Species B: Color coding

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, from each of the three groups of species, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Page 2

Art Unit: 3738

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javier G. Blanco whose telephone number is 571-272-4747. The examiner can normally be reached on M-F (7:30 a.m.-4:00 p.m.), first Friday of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor. Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

**JGB** 

**Primary Examiner**